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AN ACT
RELATING TO MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES BY
EXPANDING AN EXEMPTION TO HEALTH CARE LICENSING REQUIREMENTS
FOR CERTAIN RESIDENTIAL PROGRAMS THAT RECEIVE FUNDING UNDER
A MEDICAL ASSISTANCE HOME AND COMMUNITY-BASED SERVICES
WAIVER AND APPROVAL FROM THE DEPARTMENT OF HUMAN SERVICES,
AND REVISING MEMBERSHIP REQUIREMENTS FOR THE MENTAL HEALTH
AND DEVELOPMENTAL DISABILITIES COMMISSION, AND PROVIDING AN
EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 135C.2, subsection 3, paragraph c, Code
2003, is amended to read as follows:

c. The rules adopted for intermediate care facilities for
persons with mental retardation shall be consistent with, but
no more restrictive than, the federal standards for
intermediate care facilities for persons with mental
retardation established pursuant to the federal Social
Security Act, } 1905(c)(d), as codified in 42 U.S.C. } 1396d,
in effect on January 1, 1989. However, in order for an
intermediate care facility for persons with mental retardation
to be licensed, the state fire marshal must certify to the
department an intermediate care facility for persons with
mental retardation as meeting that the facility meets the
applicable provisions of the rules adopted for such facilities
by the state fire marshal. The state fire marshal's rules
shall be based upon such a facility's compliance with either
the provisions applicable to health care occupancies chapter
or the residential board and care chapter occupancies of the
life safety code of the national fire protection association,
1985 2000 edition. The department shall adopt additional
rules for intermediate care facilities for persons with mental
retardation pursuant to section 135C.14, subsection 8.

Sec. 2. Section 135C.6, subsection 8, Code 2003, is
amended to read as follows:

8. The following residential programs to which the
department of human services applies accreditation,
certification, or standards of review shall not be required to
be licensed as a health care facility under this chapter:

a. Residential programs providing care to not more than
four individuals and receiving moneys appropriated to the
department of human services under provisions of a federally
approved home and community-based services waiver for persons
with mental retardation or other medical assistance program
under chapter 249A ~~shall not be required to be licensed as a~~
~~health care facility under this chapter.~~ In approving a
residential program under this ~~subsection~~ paragraph, the
department of human services shall consider the geographic
location of the program so as to avoid an overconcentration of
such programs in an area. In order to be approved under this
~~subsection~~ paragraph, a residential program shall not be
required to involve the conversion of a licensed residential
care facility for persons with mental retardation.

b. Not more than forty residential care facilities for
persons with mental retardation that are licensed to serve not
more than five individuals may be authorized by the department
of human services to convert to operation as a residential
program under the provisions of a medical assistance home and
community-based services waiver for persons with mental
retardation. A converted residential program operating under
this paragraph is subject to the conditions stated in
paragraph "a" except that the program shall not serve more
than five individuals.

c. A residential program approved by the department of
human services pursuant to this paragraph "c" to receive
moneys appropriated to the department of human services under
provisions of a federally approved home and community-based
services waiver for persons with mental retardation may
provide care to not more than five individuals. The
department shall approve a residential program under this
paragraph that complies with all of the following conditions:

(1) Approval of the program will not result in an

3 6 overconcentration of such programs in an area.

3 7 (2) The county in which the residential program is located

3 8 submits to the department of human services a letter of

3 9 support for approval of the program.

3 10 (3) The county in which the residential program is located

3 11 provides to the department of human services verification in

3 12 writing that the program is needed to address one or more of

3 13 the following:

3 14 (a) The quantity of services currently available in the

3 15 county is insufficient to meet the need.

3 16 (b) The quantity of affordable rental housing in the

3 17 county is insufficient.

3 18 (c) Implementation of the program will cause a reduction

3 19 in the size or quantity of larger congregate programs.

3 20 Sec. 3. Section 225C.5, subsection 1, paragraph c, Code

3 21 2003, is amended to read as follows:

3 22 c. One member shall be an active board member of a

3 23 community mental health center selected from nominees

3 24 submitted by the Iowa association of community providers.

3 25 Sec. 4. EFFECTIVE DATE. This Act, being deemed of

3 26 immediate importance, takes effect upon enactment.

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3 30 CHRISTOPHER C. RANTS

3 31 Speaker of the House

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3 35 MARY E. KRAMER

4 1 President of the Senate

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4 3 I hereby certify that this bill originated in the House and

4 4 is known as House File 387, Eightieth General Assembly.

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4 8 MARGARET THOMSON

4 9 Chief Clerk of the House

4 10 Approved _____, 2003

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4 14 THOMAS J. VILSACK

4 15 Governor